



MINUTES

Local Government Mandates Study Committee

November 7, 2014

MEMBERS PRESENT:

Senator Mary Jo Wilhelm, Co-chairperson
Senator Rita Hart
Senator Ken Rozenboom
Senator Rich Taylor

Representative Bobby Kaufmann, Co-chairperson
Representative Greg Heartsill
Representative Dawn E. Pettengill
Representative Art Staed
Representative Sally Stutsman

MEETING IN BRIEF

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- II. Iowa State Association of Counties
- III. Iowa County Recorders Association
- IV. Iowa State Association of County Auditors
- V. Urban County Coalition
- VI. Iowa League of Cities
- VII. Iowa Newspaper Association
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Local Government Mandates Study Committee

I. Procedural Business

Call to Order. The first and only meeting of the Local Government Mandates Study Committee was called to order by temporary Co-chairperson Wilhelm at 9:00 a.m. on Friday, November 7, 2014, in Room 103 at the State Capitol Building in Des Moines, Iowa.

Election of Permanent Co-chairpersons. Members of the committee elected, by voice vote, temporary Co-chairpersons Wilhelm and Kaufmann as permanent co-chairpersons.

Adoption of Rules. Members of the committee adopted, by voice vote, the proposed rules for the committee that had been previously distributed.

Opening Remarks. Co-chairperson Wilhelm invited the members of the committee to introduce themselves, followed by opening remarks from Co-chairpersons Wilhelm and Kaufmann.

Adjournment. The meeting was adjourned at 1:20 p.m.

II. Iowa State Association of Counties

Mr. Jamie Cashman, Government Relations Manager, Iowa State Association of Counties (ISAC), provided an overview of sheriff's, driver's license, and food inspection fees, in addition to discussing other unfunded or underfunded mandates. Mr. Cashman stated that there are a number of services that counties provide to the general public that are subsidized by property taxes because the fees charged to customers are not adequate to pay the cost of providing the service.

Sheriff's civil process service fees are charged for personal service of documents, for the execution of certain orders, and for other sheriff's civil process duties. The amount of the fees are set in statute. Mr. Cashman stated that the General Assembly last increased sheriff's civil process service fees in 2001, and the amount of the fees do not currently meet the actual cost to perform the civil process duties.

Mr. Cashman stated that there are 81 county treasurer offices issuing driver's licenses. Of the fee collected by the county treasurer, \$7 is retained by the county and the balance is remitted to the Iowa Department of Transportation (DOT). This fee was last adjusted in 2004. Mr. Cashman noted that the actual cost to the county treasurer of issuing a driver's license is \$10.31, according to the latest study conducted by the State Auditor in conjunction with county treasurers and the DOT. The cost over \$7 is subsidized largely by property taxes, he said. Mr. Cashman stated that ISAC recommends increasing the portion of the fee retained by the county from \$7 to \$10. According to the DOT, county treasurers issued 375,897 driver's licenses in 2013. Increasing the fee retained by the county to \$10 would generate an additional \$1.128 million, Mr. Cashman said.

Mr. Cashman noted that if food inspection fees were increased, it would reverse the trend of counties returning food inspection duties to the Department of Inspections and Appeals (DIA), and provide incentive to some counties to begin conducting them. According to Mr. Cashman, in 2009 DIA conducted inspections in 23 counties; today it conducts inspections in 52 counties. Mr. Cashman commended Director Rodney Roberts of DIA for gathering county officials and



stakeholders to meet and discuss increasing the current food inspection fees. In response to questions from Representative Staed, Mr. Cashman stated that counties are currently authorized but not required to conduct food inspections and that inspections occur more frequently when conducted by counties, rather than the state. Local governments that conduct food inspections are allowed to retain the entire amount of the fee, he said. Co-chairperson Wilhelm recognized Bev Zylstra, Deputy Director, DIA, who stated that the food inspection fee schedule is based on gross sales of the food retailer. Mr. Cashman stated that ISAC recommends increasing food inspection fees to fully fund food safety program activities, authorize DIA to set inspection fees by administrative rule, and provide that the fees be automatically adjusted by the percentage increase in the federal Consumer Price Index (CPI).

Senator Taylor questioned why increases for sheriff's fees, driver's license fees, and food inspections fees are not tied to increases in the CPI. Mr. Cashman opined that the General Assembly should consider raising the three sets of fees, allowing some fees, such as food inspection fees, to be set by administrative rule, tying certain fee increases to the CPI, and increasing some fees based on the actual cost of providing the service, such as was determined for driver's license issuance. He also stated that in lieu of fee increases, the General Assembly should consider providing additional state funding to take the burden off of property taxes.

Mr. Cashman also discussed the lack of state funding for sheriffs transporting individuals to mental health facilities across the state and the lack of state funding for courthouse security. Co-chairperson Wilhelm stated that transporting individuals to mental health facilities for treatment ordered by the court can be quite burdensome to counties, with some deputies having to drive seven hours one way to transport. She further noted that, in such circumstances, the transporting deputy needs to be replaced while gone. Both Senator Rozenboom and Representative Stutsman inquired about the cost to the state of maintaining a database of available mental health beds, with Senator Rozenboom noting that in 2014 one-time funding was appropriated to create such a database and that the provision was item vetoed. Senator Wilhelm encouraged local central point of coordination personnel and mental health case managers to continue discussions on alleviating the challenges of transporting individuals to mental health facilities and to continue studying the possibility of transporting individuals to facilities located in bordering states.

Mr. Lucas Beenken, Public Policy Specialist, ISAC, discussed the impact of the new multiresidential classification for property tax purposes beginning with the 2015 assessment year. He noted that the Legislative Services Agency forecasted a \$374.1 million loss in property taxes over eight years for all taxing jurisdictions as a result of this property classification. Mr. Beenken then presented information on projected reductions in future revenue in select counties and recommended that the General Assembly either repeal the multiresidential provisions or provide counties with a standing appropriation to ease the financial hardship that will be created by implementation of the new property tax classification. Representative Stutsman requested that this information regarding revenue loss be presented on a county-by-county basis for all 99 counties. Representative Pettengill requested that ISAC provide information on the amount of revenues collected from multiresidential property from 2012, the date of enactment of the new classification, to 2015, the date of implementation of the new classification.



III. Iowa County Recorders Association

Ms. Melissa Bird, Keokuk County Recorder, Ms. Kris Colby, Winnebago County Recorder, and Mr. Chad Airhart, Dallas County Recorder represented the Iowa County Recorders Association. The county recorders presented information on underfunded mandates, including fees collected on behalf of the Department of Natural Resources (DNR) for vehicle and vessel licensing and renewals, the portion of the real estate transfer tax retained by the county for providing declarations of value to the Department of Revenue and for preparation and submission to DNR of groundwater hazard statements required when certain real estate is transferred, and fees collected as part of the county recorder's duties as county registrar of vital records on behalf of the Department of Public Health (DPH).

The recorders also provided a detailed examination of marriage application processing duties and associated fees. Ms. Bird stated that in 2007 marriage application processing duties were shifted from county district courts to the county recorders, but noted that the distribution of collected fees has not reflected the shift in duties. She noted that \$31 of the current \$35 marriage license application fee is allocated to the state and that only \$4 is retained by the county and that is specifically for providing a certified copy of a marriage certificate. Mr. Airhart then detailed county procedures associated with marriage license application processing and associated county costs for which the counties are not compensated. Mr. Airhart concluded by stating that county recorders partner with the state to provide certain services, and although increasing fees is not popular, without the ability to retain an adequate amount of fees to compensate county recorders for providing these services, county property taxpayers are currently subsidizing the cost of these services, including marriage license application processing.

Ms. Colby recommended that the General Assembly increase the marriage license application processing fee by \$10 and that the increase be dedicated to county recorders to compensate for their incurred costs. Co-chairperson Kaufmann observed that there is clearly a discrepancy between the costs involved and the amount of the fee retained by the county. In response to a question from Representative Stutsman, Ms. Bird stated that most of the current steps involved in processing marriage license applications are necessary for preservation purposes, whether the steps are mandated or not.

In response to a question from Representative Pettengill, Ms. Bird stated that of the \$31 that goes to the state, the amount transferred to the State Registrar in the DPH was increased from \$8 to \$13 in order to pay for a statewide computer system that will eventually allow recorders access to all counties' vital records. Representative Heartsill queried Ms. Bird as to why in the breakdown of disposition of marriage license application processing fees, there are two amounts – \$3 and \$15 – designated for deposit in the State General Fund. Ms. Bird stated that the \$3 amount is earmarked for services to victims of domestic violence.

IV. Iowa State Association of County Auditors

Mr. Ken Kline, Cerro Gordo County Auditor, and Mr. Dennis Parrott, Jasper County Auditor, representing the Iowa State Association of County Auditors (ISACA), discussed cost savings achieved by county auditors as a result of enactment during the 2014 Legislative Session of HF 2366, relating to the policy administration of elections and voter registration. Mr. Kline specifically



noted savings through provisions that permitted electronic retention of voter registration records, reduced from two to one the number of Saturdays the auditor's office is required to be open prior to primary elections, and provided auditors with choices in selecting the number of envelopes used in mailing absentee ballots to voters. In response to a question from Senator Rozenboom, Mr. Kline stated that in 2012, only 41 people statewide showed up on the Saturday 10 days before the primary election and he would provide the committee with the equivalent numbers for the 2012 general election.

Mr. Kline and Mr. Parrott then discussed elections administration issues across the state. Mr. Kline noted concerns with recent policy proposals for implementation of runoff primary elections in an inconclusive primary election (one in which no candidate receives 35 percent or more of the vote) and suggested as an alternative a "ranked preference" or "instant" runoff in which the ballot is designed to allow the voter to rank the voter's choice of candidates. This would not increase county election costs as much as an instant runoff would, he said.

Mr. Parrott discussed another recent policy proposal of providing for "ongoing" or "perpetual" absentee voter status, meaning once a voter applies for an absentee ballot, the voter, in most circumstances, would continue to receive absentee ballots for subsequent elections. A system such as this, he averred, would eventually result in Iowa becoming a vote-by-mail state. He noted concerns regarding additional costs to counties, stating that Jasper County spent \$5,074 in postage to mail requested absentee ballots during the 2014 general election, and those costs would have risen to approximately \$31,500 if his office was required to mail absentee ballots to all registered voters within the county. There would also be an increase in the time and staff needed to process the increased number of absentee ballots, and the auditor would still have to provide polling places on election day. Also, signature verification equipment would probably be necessary at an additional cost to counties. He further stated that he believes allowing perpetual absentee voter status would present increased opportunities for commission of voter fraud.

In response to a question from Representative Stutsman, Mr. Kline stated that there is no statutory requirement that precinct election officials work the entire election day of more than 14 hours, but some auditors resist allowing split shifts because scheduling is already challenging and would result in the need to appoint and train more precinct election officials. Co-chairperson Wilhelm noted that it is already a challenge to find a sufficient number of precinct election officials because of the political balance requirement and the length of election day. Mr. Parrott stated that the hours worked on election day could be reduced if counties were allowed to count write-in votes at a centralized location the day after the election, rather than the current requirement that write-in votes be counted at each precinct polling place after the polls close at the end of election day. Mr. Kline stated that ISACA has supported past efforts to shorten the election day in Iowa by one hour by requiring that the polls close at 8:00 p.m. rather than 9:00 p.m.

When asked to comment on the statute allowing people to register to vote at the polling place on election day, both Mr. Kline and Mr. Parrott indicated that most county auditors have adapted to this requirement without serious issues. They did note that there has been an increased cost because auditors have more ballots printed because they no longer have a hard number (based on voter registrations prior to election day) on election day. Mr. Parrott stated that in the 2008 general election, the first election after enactment of election-day voter registration, Jasper County had a



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total of 600 election-day registrants, which, he said, was a surprisingly high number. The law has worked well since its enactment, Mr. Parrott said.

V. Urban County Coalition

Mr. John Etheredge, Johnson County Supervisor, Ms. Dee F. Bruemmer, Scott County Administrator, Mr. James W. Bronner, Black Hawk County Finance Director, and Ms. Linda Langston, Linn County Supervisor, presented to the committee on behalf of the Urban County Coalition. The coalition represents Black Hawk, Dubuque, Johnson, Linn, and Scott counties. Mr. Etheredge described the coalition as an organization that advocates for the concerns of large counties, including the cost shift from the state to local governments because of the requirements that counties provide physical facilities and supplies and equipment for Iowa Department of Human Services (DHS) personnel in regional offices and for the district courts.

Ms. Bruemmer stated that the change in the DHS service model to a regional basis has created inequities for the six counties where DHS regional offices are located. Those counties are the five members of the coalition and Polk County. Those six counties must provide storage space for DHS records for services provided in all the counties in the region, she said, in addition to providing office space and supplies and equipment. Counties are only partially reimbursed for this, she said. State law provides that reimbursement be based on federal reimbursement rates. Those rates have been reduced over time, and state moneys do not make up the deficiency in cost, so the county general fund pays any deficiency. She stated that the coalition recommends that the cost reimbursement model be reviewed and the state share increased or, preferably, that the state no longer mandate that counties supplement the operations of DHS.

Mr. Bronner presented information related to the use and maintenance of county courthouses, noting that Iowa Code section 602.1303 requires that counties provide physical facilities for the district courts, while local taxpayers also pay for the construction and maintenance of these facilities. He noted that local taxpayers in the five counties that are members of the coalition provide over \$3.5 million in annual subsidies for the operation of the state courts through provision of maintenance, security, and personnel. Mr. Bronner noted the lack of state reimbursement for counties providing courthouse security and remarked that 50 percent of Black Hawk County's courthouse office space is occupied by state personnel and that the rate is 80 percent in Johnson County. Mr. Bronner stated that the coalition recommends that the General Assembly provide for a more equitable distribution of resources by distributing a greater portion of court fees to counties for courthouse maintenance and courthouse security.

Ms. Langston described how large counties are adapting to the new budgetary environment following the 2013 enactment of SF 295 (State and Local Taxation of Property and Income), which, among other things, established the multiresidential classification for property tax purposes, by utilizing budgeting for outcomes and implementing administrative changes to operate more efficiently. Ms. Langston also noted the difficulties created when DHS and the judicial branch present budget requests outside of the standard county budgeting timetable. Ms. Langston stated that 95 percent of the activities of county government is mandated by the state, and the state and counties must partner in achieving equitable distribution of court revenues. A great percentage of court fees is transferred to the state, she noted.



Senator Hart requested from the coalition information on the fiscal impact of making all courthouses adequately secure, and Representative Staed requested a more detailed analysis of distribution of those court fees that are transferred to the state.

VI. Iowa League of Cities

Mr. Alan Kemp, Executive Director, Iowa League of Cities (league), presented an overview of notice and publication requirements for cities. He stated that the majority of public notices must follow the requirements of Iowa Code section 362.3, which states that notice must be published not less than four days and not more than 20 days before a public hearing or other action is taken. There are exceptions to this time frame, such as for adopting a budget or budget amendment (not less than 10 days and not more than 20 days) and for zoning ordinances (not less than seven days and not more than 20 days). Iowa Code sections 362.3 and 618.3 contain the requirements for the type of newspaper used to publish notices. Also, he added, cities of 200 or fewer in population may, as an alternative to publishing notice, post notice in three public places which have been designated by ordinance. The Department of Administrative Services sets the publication rate for public notices – typically in June of each year – for the following fiscal year. Mr. Kemp informed the committee that the rate for Fiscal Year 2014-2015 is 46.9 cents per line for the first insertion and 31.76 cents for each subsequent insertion.

Mr. Kemp stated that the most frequently raised issues by member cities of the league regarding notice are the means by which notice is required and the higher cost, as a percent of their budgets, placed on smaller cities. Cities believe in open government and keeping citizens and constituents informed, he averred, but cities would like more flexibility in how notice is required to be given. Mr. Kemp questioned the effectiveness of requiring notice by newspaper publication, noting that over the past 10 years there has been a decline in print readership and an increase in online publication readership. Some cities are experiencing publication timing issues due to monthly council meetings and less frequent publications by the official newspaper. Some large cities have sophisticated Internet sites that are updated often and are an effective means to disseminate information accessible not only in the city and region but across the state and country. He stated that if cities were allowed online publication of notices, it would not only be a cost savings to the city but also to businesses who subscribe to the newspaper to monitor notifications in all of the cities where they do business. Cities also understand the importance of local newspapers, he said, and a new notification system could include both online and print requirements. In response to a question from Senator Rozenboom, Mr. Kemp stated that there were probably policy reasons for the variations in the timing of notices as the different requirements were enacted over the years but it makes sense to be consistent.

VII. Iowa Newspaper Association

Mr. Scott Sundstrom, representing the Iowa Newspaper Association, Mr. Jeff Wagner, President, and Mr. Mike Hodges, Government Relations Co-chairperson, Iowa Newspaper Association, spoke of the importance of public notice advertising in maintaining an open and transparent government. Mr. Sundstrom stated that newspaper-based publication provides the best option to achieve transparency and accountability in local government because public notices in newspapers are widely read, provide a comprehensive, objective, and verifiable account of the actions of elected



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officials, and newspaper publication is inexpensive. According to the results of a study commissioned by the Iowa Newspaper Association, 77 percent of Iowans read their local newspaper, and public notices in the newspaper are more widely read than the sports news. Eighty-six percent of Iowans believe state and local government should be required to publish notices in newspapers, in part, he said, because they find newspaper publication a more trustworthy source than a government's Internet site. He further noted that, according to the League of Cities Internet site, 65 cities that are required to publish notices, because they have a population of more than 200 and a newspaper in their city, do not have an Internet site. He stated that the publication rate set by the state is applied statewide and is a reasonable cost compared to the advertising rate paid by other advertisers because the government publication rate is substantially discounted.

Mr. Wagner stated that the Iowa Newspaper Association provides access to all public notices through the association's Internet site and noted that many cities lack the information technology (IT) staff necessary to publish public notices on an Internet site. Co-chairperson Wilhelm agreed, stating that only 51 counties have an IT department, and, until the capability and availability of broadband is more widespread, Iowa needs newspaper publication requirements for public notices. She also said that, for local governments, proof of publication is a must when fulfilling public notice requirements. Mr. Hodges provided the committee with an example of a proof of publication issued by his newspaper, The Wapello Republican. Mr. Wagner asserted that newspapers bring people together and they are widely read because they contain a wide variety of general information. Co-chairperson Kaufmann noted the importance of local newspapers in his area, stating that he advertised heavily in five local weeklies in his district during the 2014 election cycle.

There was general discussion among committee members regarding errors in public notice publications and who is responsible for paying for the corrected publication. Mr. Hodges stated that, to his knowledge, if an error is made by the publisher, the city only pays for the correct publication. He noted, though, that it does set the city back in regards to the statutory time periods for publication of notices. In response to Representative Pettengill, Mr. Hodges stated that the government publication rate structure is uniform for small and large newspapers because costs are based on width of line and size of type, which are generally uniform across newspaper publications.

Representative Stutsman stated that 48 counties have IT departments operating Internet sites. She questioned whether a one-size-fits-all approach is necessary when considering statutory requirements for publication of government notices. She noted that Johnson County has invested heavily in its Internet site and is also currently providing access to online videos of board of supervisors meetings. Senator Hart noted the generational disparity regarding how people access information as a reason to consider online publication of government notices. Mr. Wagner stated that he does not disagree with allowing additional tools for providing public notice, but it would be asking people to make more of an effort to find public information if governments were allowed to publish public notices online only. He further stated that the consistency of newspaper publication of public notices is important for taxpayers, rather than expecting them to rely on Internet sites that vary in presentation from one government jurisdiction to the next.



VIII. Public Comment

Ms. Susan Cameron, representing the Iowa State Sheriffs & Deputies Association (ISSDA), discussed the duties of the county sheriffs detailed in Iowa Code chapters 331 (general duties) and 356 (county jails). Sheriffs do not oppose these duties, she said, but they are an indication of why Iowa property taxpayers are funding increasing public safety costs. Ms. Cameron stated that the ISSDA will submit proposals to the General Assembly during the 2015 Legislative Session to address the rising costs that sheriffs confront in fulfilling their civil process service duties. The ISSDA also supports proposals to address rising medical costs for county jails and transportation of involuntary mental health committals. She concluded by stating the ISSDA is in the process of collecting information regarding civil service process fees received and the actual cost of providing that service.

IX. Committee Discussion and Recommendations

Co-chairperson Kaufmann invited the committee members to share their thoughts on the presentations and recommendations put forth by individual presenters over the course of the day. Representative Staed stated that the amount of fees charged for services is out of balance in relation to actual costs because state government has not taken action to increase fees for many years. In addition, the General Assembly has capped and cut funding to local governments but continues to mandate they provide services and continues to claw back some of the fees collected by local governments for providing these services. Senator Hart stated that it is clear that the General Assembly needs to consider areas in which to close the gap between actual costs incurred by local governments in fulfilling some state mandates and the funding received by the state and from fees.

Senator Rozenboom stated that, as a former county supervisor, he sympathizes with the cost the state passes on to local governments in the form of unfunded mandates. It is similar to the treatment the states receive from the federal government, he said. He further stated that he has heard from a lot of constituents about the new multiresidential property tax classification. Representative Heartsill stated that the General Assembly needs to be sensitive of the costs the state passes on to local government, but the General Assembly needs to be equally sensitive to local taxpayers and fee payers to avoid passing too much of the cost on to them.

Senator Taylor reiterated that fees collected by local governments should be tied to the rate of inflation or some other type of cost index that maintains the connection between the actual cost to provide a service and the fee a local government is allowed to charge. This would prevent the General Assembly from having to revisit this issue every two to 10 years, he said. Representative Pettengill briefly commented on the current inequities discussed by the presenters, particularly the amount of fees collected by county recorders and required to be transferred to the DPH and the amount of space counties are required to provide to regional DHS offices. She further noted the economic hardship created in the rural areas when DHS regionalized its services. She also expressed interest in the extensive county mandate report provided to the committee members by ISAC and hopes the Iowa League of Cities is preparing a similar document for legislators.

Representative Stutsman stated that when she was a county supervisor it was frustrating trying to figure out how to pay for services and other duties mandated by the state and then being faced



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with the backlash of taxpayers angry that their taxes had increased. The committee is presented with a terrific opportunity to improve government and make it more cost effective, she said, by, among other things, reviewing current mandates on local governments to determine the continued need for some mandates, improving government efforts to document the actual costs of providing services and fulfilling duties mandated by the state, and giving local governments more flexibility in the manner in which they fulfill duties mandated by the state.

Co-chairperson Wilhelm thanked individuals for their thoughtful presentations, noting that the meeting consisted of several discussions that have been ongoing during the four years she has served as chairperson of the Senate Local Government Committee. She agreed with Co-chairperson Kaufmann that it is the responsibility of the committee to educate other legislators about these important issues by putting forth a coherent message containing proposals approved by the committee. Co-chairperson Wilhelm and Co-chairperson Kaufmann asked that, after giving further study to the information received during the meeting, committee members share proposals for committee recommendations to the Legislative Services Agency by means of electronic mail.

X. Materials Filed With the Legislative Services Agency

The following materials listed were distributed at or in connection with the meeting and are filed with the Legislative Services Agency. The materials may be accessed from the <Committee Documents> link on the committee's Internet site:

<https://www.legis.iowa.gov/committees/meetings/documents?committee=21381&ga=ALL>

1. Iowa State Association of Counties — Presentation Materials and ISAC County Mandate Report.
2. Iowa County Recorders Association — Presentation Materials.
3. Urban County Coalition — Written Remarks and Presentation Materials.
4. League of Cities — Written Remarks.
5. Iowa Newspaper Association — Written Remarks, Presentation Materials, and Proof of Publication.
6. Iowa State Sheriffs and Deputies Association — Written Comments.